

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SURGICAL INSTRUMENT SERVICE)
COMPANY, INC.,)
)
Plaintiff,)
)
vs.) Case No.
) 3:21-CV-03496-VC
INTUITIVE SURGICAL, INC.,)
)
Defendant.)
-----)

VIRTUAL VIDEOCONFERENCE VIDEO-RECORDED
DEPOSITION OF GREG POSDAL, 30(B)(1)

Tuesday, November 1, 2022
Remotely Testifying from Phoenix, Arizona

Stenographically Reported By:
Hanna Kim, CLR, CSR No. 13083
Job No. 5541334-B

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SURGICAL INSTRUMENT SERVICE)
COMPANY, INC.,)
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INTUITIVE SURGICAL, INC.,)
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_____)

Virtual videoconference video-recorded
deposition of GREG POSDAL, in the capacity of a
30(B)(1) witness, Remotely Testifying from Phoenix,
Arizona, on Tuesday, November 1, 2022, beginning at
11:14 a.m., PDT, and concluding at 2:36 p.m.,
pursuant to the stipulations of counsel thereof,
before Hanna Kim, CLR, Certified Shorthand Reporter,
No. 13083.

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Also Present:

RAMON PERAZA, Videographer

1 A. Head of the flexible repair lab, flexible
2 endoscope repair lab.

3 Q. What is Keith Posdal's role?

4 A. Head of the used equipment and
5 instrumentation. 11:18:08

6 Q. What is John Jarrette's?

7 A. Head of instrumentation.

8 Q. Who does Keith Johnson report to?

9 A. Me -- I'm sorry. I missed that.

10 Q. Does he currently report to you, or does 11:18:23
11 he report to the COO?

12 A. He currently reports to me.

13 Q. So the COO and Mr. Johnson report to you,
14 and then the other folks who were previously in your
15 reporting chain report to the COO now? 11:18:35

16 A. That's correct.

17 Q. Okay. And Mr. Johnson is the SVP of
18 sales; is that correct?

19 A. Yes.

20 Q. Are Denise and Keith Posdal relations of 11:18:43
21 yours?

22 A. Siblings.

23 Q. How long have you been employed by SIS?

24 A. Since 1983. So 42 years, something like
25 that. Is that -- is that right? 11:19:04

1 No -- yeah. Is it -- no, 41 years.

2 40 years. I don't know.

3 Q. I think it's around 40.

4 What was your role when you first joined

5 SIS? 11:19:22

6 A. I was in a -- a repair role and kind of a

7 research and development role. We added services.

8 I added services to what we were currently

9 repairing.

10 Q. When did you become president and CEO? 11:19:34

11 A. 2000, I think.

12 Q. Who was the president and CEO prior to

13 you?

14 A. Robert Posdal, my father.

15 Q. Describe for me SIS's business at -- at 11:19:47

16 the present.

17 A. At the present, the great majority of our

18 business is -- is repair business, among a number of

19 different disciplines.

20 Q. What disciplines does SIS provide repair 11:20:06

21 services in?

22 A. Stainless steel instrumentation, specialty

23 instrumentation, frigid endoscopes, flexible

24 endoscopes, orthopaedic power instrumentation, video

25 instruments, and miscellaneous instruments. I think 11:20:25

1 I got them all.

2 Q. Where, if anywhere, in -- in that list
3 does robotics fall?

4 A. That's -- that's a separate department.

5 And one that's not currently performed in-house. 11:20:52

6 Q. Okay. Are there other departments that
7 SIS facilitates services for but are not performed
8 in-house?

9 A. Previously mentioned harmonic scalpels,
10 PHACO handpieces, fiberoptic light cables, and some 11:21:14
11 overflow when we're beyond capacity.

12 Q. When -- when you say "overflow when you're
13 beyond capacity," you're referring to the -- the
14 other categories that you mentioned previously?

15 A. That's correct. 11:21:40

16 Q. So for the -- the list of disciplines that
17 you mentioned previously, in the ordinary course,
18 those -- those repair services are provided by SIS
19 employees; is that right?

20 A. That's correct. 11:21:59

21 Q. When SIS uses subcontractors, does it
22 disclose to its customers that it has subcontracted?

23 A. Not generally.

24 Q. Why not?

25 A. They don't -- they haven't asked. They 11:22:11

1 those was. They had an agreement with them for a
2 period of a year, and we had to wait for that
3 agreement to end to start working with Rebotix.

4 Q. What was the other company that had an
5 agreement with them? 11:42:25

6 A. I -- I -- I can't be a hundred percent
7 certain. But I believe that was Restore Robotics,
8 or -- or whatever's Clif's company was at that time.
9 Not sure if it -- it was named that or not.

10 Q. Was SIS's arrangement with Rebotix 11:42:42
11 exclusive, or was Rebotix allowed to have other
12 companies service customers for them?

13 A. Again, we were in the beginning phases of
14 that. But the discussions with Chris Gibson said
15 that their efforts had basically yielded no success 11:42:58
16 in their -- in -- in -- anyone else's ability to
17 sell this program.

18 We felt highly confident with our contacts
19 and our relationships and -- and our background that
20 we would be successful in this. And so, we were in 11:43:14
21 discussions with them about getting to the point
22 where it would be exclusive again.

23 They -- I think they had some doubt
24 whether we could do that or not based on their
25 previous experiences, but we were confident once we 11:43:33

1 could show them that -- that we could provide this
2 service accurately to customers, that we would be
3 able to move towards a more permanent and exclusive
4 relation -- relationship with them.

5 Q. Why was SIS confident that it would be 11:43:50
6 successful in the EndoWrist reset business?

7 A. A number of reasons. Being in the
8 business for as long as we had, we knew there was an
9 appetite for this service. From customers, I think
10 there largely was concern. I don't know if disdain 11:44:10
11 is too strong of a word about Intuitive and that the
12 customers didn't understand why these things were so
13 expensive, why they had limited lives, et cetera.

14 I think they -- they were clamoring for an
15 option. And -- and we had some significant 11:44:35
16 relationships with -- with IDNs and GPOs and knew
17 what the potential savings to the hospitals could
18 look like. And were -- were convinced that we'd be
19 able to do a great job of -- of bringing this to
20 market. 11:45:00

21 Q. What customers expressed to you that they
22 didn't understand why EndoWrist instruments had
23 limited lives?

24 A. Can you repeat that question.

25 Q. Sure. 11:45:15

1 What SIS customers expressed to you that
2 they didn't understand why EndoWrist instruments had
3 limited lives?

4 A. I personally probably didn't have any of
5 those conversations. Those were largely Keith 11:45:27
6 Johnson conversations. So I had no direct
7 conversations about those.

8 Q. Would -- would your answer be the same
9 about customers that expressed a lack of
10 understanding about why EndoWrist instruments are so 11:45:49
11 expensive?

12 A. I would imagine. Yes.

13 Q. You mentioned that SIS was planning to
14 perform the EndoWrist reset process in-house
15 eventually; is that right? 11:46:11

16 A. That's correct.

17 Q. What steps would SIS needed to have taken
18 in order to be able to provide that service
19 in-house?

20 A. We had discussions with Rebotix at the 11:46:20
21 time. We had set up for a training period, where --
22 whereby Rebotix personnel would come to our lab,
23 help train our people.

24 Again, the great majority of what would go
25 into this service from our perspective, from -- from 11:46:42

1 our strength, was the fact that we've repaired
2 instruments similar this whole time. The only thing
3 different was the chip. So we really needed to kind
4 of get familiar with the processes surrounding the
5 chip component on the replacement and then be taught 11:47:01
6 the rest of their policies and procedures for
7 testing and evaluating those devices.

8 Q. So I think you said you had discussions
9 with Rebotix about all of that. But did -- did any
10 of those steps -- did SIS ever actually ever take 11:47:22
11 any of those steps, to -- so let -- let -- let --
12 let's do it this way.

13 Did the -- that training period that you
14 mentioned, did that ever happened?

15 A. It did not. 11:47:32

16 Q. Okay.

17 A. It did not. We were assembling the
18 components we needed. There were some specialized
19 devices, one that was mentioned earlier and that was
20 the device to open the EndoWrists undamaged. 11:47:46

21 So we purchased the -- the items we needed
22 for that. Some, like I said, were specific. Some
23 were merely tools. And so, we were in the process
24 of gathering all of that.

25 Q. When was SIS in the process of gathering 11:48:02

1 all of that?

2 A. I -- I can't say for sure. My best
3 recollection would be about the middle of 2019, I
4 suppose.

5 Q. Did SIS ever get familiar with the 11:48:17
6 processes surrounding the chip component of the
7 replacement?

8 A. Not beyond the initial discussion with
9 Chris Gibson and -- and a couple after that. We did
10 have Greg Fiegel up to our lab. He walked through 11:48:42
11 the process with a customer of -- or answered
12 questions regarding EndoWrist repair with a customer
13 that was visiting.

14 Q. What customer?

15 A. It was Banner Healthcare. 11:49:01

16 Let me make a note here. I'm not certain
17 if it was Greg Fiegel. They may have sent someone
18 else up. I don't recall. It -- it -- it could have
19 been Greg Fiegel. It could have been somebody else.

20 Q. Okay. Apart from the training period, 11:49:26
21 acquiring the tools that you mentioned, any other
22 steps that SIS would have needed to take in order to
23 perform the EndoWrist reset process in-house?

24 A. Just the training with the -- what
25 robotics had established as their parameters for 11:49:48

1 ability to do this, I think that would have pursued
2 with far more vigor.

3 It -- it seemed crazy to invest a lot of
4 money if we didn't get past the -- Intuitive's
5 effect on the hospital and their -- their ability to 12:02:58
6 feel comfortable with -- with giving these items out
7 for chip re- -- reset without, you know, losing
8 their -- their service contracts with Intuitive.

9 Q. When did SIS start working with Restore?

10 A. Don't know the exact date, but it was 12:03:30
11 likely in the middle of 2020. It was after the
12 pandemic started rolling.

13 Q. Does SIS still have any ongoing business
14 with Rebotix, setting aside Benjamin Bi- --
15 Biomedical, but Rebotix specifically? 12:03:55

16 A. Rebotix specifically, no.

17 Q. Does SIS plan to enter into business again
18 with Rebotix specifically?

19 A. Sure. If we have multiple sources for
20 this service, we will use both of them. 12:04:07

21 Q. Does SIS still plan to perform the service
22 in-house for the Xi, once that is up and running?

23 A. I -- it -- it would be our -- our usual
24 business practice to do that.

25 Q. Under what circumstances would you not do 12:04:35

1 that?

2 A. Under the current conditions, if -- if
3 hospitals are unwilling to jeopardize their service
4 agreements with Intuitive, it would be futile to
5 pursue that.

12:04:49

6 Q. And if those current conditions were to
7 change, are there any circumstances under which SIS
8 would rely on service partners to perform the Xi
9 reset as opposed to doing it in-house?

10 A. I would suppose that is a question similar
11 to the one we faced early on. It -- if the -- if
12 the volume increased too rapidly, I believe we would
13 reach out to either/or of those to help supplement
14 the volume.

12:05:15

15 Q. Does SIS currently offer its customers the
16 Si EndoWrist reset service?

12:05:34

17 A. It's available. It hasn't been pursued or
18 spoken about recently.

19 Q. If a customer were to approach SIS,
20 would -- would the Si reset be performed by Restore
21 or Rebotix?

12:06:10

22 A. Likely, Rebotix, but I wouldn't dis- -- I
23 wouldn't count out the ability to use Restore,
24 Rebotix for that as well.

25 Q. For the EndoWrist reset services, how much

12:06:32

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1 did SIS pay to Rebotix for each service?

2 A. I believe it was in the neighborhood of
3 \$800 for the complete service, 8- or \$900 for the
4 complete service.

5 Q. Did SIS set its own prices that it charged 12:06:58
6 to customers for that service, or did it follow
7 Rebotix pricing?

8 A. We relied upon Rebotix pricing at the
9 time.

10 Q. If SIS had -- had moved forward and -- and 12:07:08
11 performed the service on its own, would it have
12 continued charging the same Rebotix prices, or would
13 SIS would have set its own prices?

14 A. I would think it's hard to say at this
15 time. I -- it would have to do with whether or not 12:07:25
16 we reached an agreement with Rebotix to -- to
17 consistently use their pricing and then the feedback
18 that we had gotten from our customers in terms of
19 the value of the service.

20 Q. What feedback did SIS get from its 12:07:36
21 customers about the value of the service?

22 A. That they were extremely happy with it.

23 Q. Did SIS and Rebotix ever have a written
24 agreement?

25 A. We were in the process of that. Again, 12:08:08

1 I -- this -- this all got shut down so quickly that
2 things just got put on the back burner. So there
3 was an agreement written. I don't believe there was
4 an agreement signed. But there is a -- a verbal
5 understanding that -- that we would continue. 12:08:25

6 I think we were told by Rebotix that in
7 the very short period of time that we had provided
8 this service that we were the only ones that made --
9 made any meaningful headway, and they were excited
10 to move forward with us. 12:08:42

11 Q. When did Rebotix tell you that?

12 A. It -- it had to be 2019/2020, probably the
13 second half of 2019.

14 Q. So you mentioned a couple times this --
15 the program getting shut down or -- or similar 12:09:04
16 words.

17 A. Mm-hmm.

18 Q. What do you mean by that?

19 A. I mean that the customers that we had
20 reached out to and some who had -- we had started to 12:09:15
21 work with already immediately received letters from
22 Intuitive.

23 Sometimes it was their local rep, to my
24 knowledge. Other times it was Intuitive's legal
25 counsel sending a scary, threatening letter, 12:09:35

1 throwing around, you know, scary terms, like this
2 may violate the FDA and their process, and -- and
3 that the -- the -- the final threat was -- and --
4 and those are my words; that -- that if they pursue
5 this service, that Intuitive can stop servicing 12:10:00
6 their equipment, will refuse to provide service
7 to -- for the robots and potentially provide them
8 with additional EndoWrists.

9 I don't know of this directly, but I know
10 of a story that there are two hospitals, I believe 12:10:24
11 in the southeast, that decided to push back on that
12 and pursue it. And one hospital was denied access
13 to new EndoWrists.

14 They said, Fine. We'll get them from our
15 sister hospital. And then the sister hospital was 12:10:42
16 threatened with not being able to purchase
17 additional EndoWrists there, either. And all of our
18 customers and the people we talked to were very
19 afraid of having their robotic program shut down.

20 Q. Did you speak to any customers directly 12:11:02
21 about the letters that they received from Intuitive?

22 A. I did not. I think I had some discussions
23 with Perry Kirwan at Banner about the existence of
24 these letters, and he was aware of them already.

25 So we probably had some discussions about 12:11:25

1 that. I can't remember off the top of my head if I
2 had any other specific conversations with any
3 customers directly.

4 Q. What did you and Mr. Kirwan discuss?

5 A. The fact that they very much wanted to 12:11:40
6 proceed with this program. They knew it was a huge
7 cost savings. They -- they were confident and
8 comfortable with the fact that it was safe and
9 effective.

10 I don't recall at the time, although, I'm 12:11:52
11 pretty confident we -- we did provide that service
12 with them on a handful of instruments to test, and
13 that they put them back in service without any
14 issues whatsoever, and were comfortable to move
15 forward with this. 12:12:13

16 That's probably the only direct
17 conversation I had with Perry Kirwan about it. I --
18 there's a lot of anecdotal information that came
19 through Keith Johnson in his discussions with Perry.

20 Q. How did Mr. Kirwan become confident and 12:12:30
21 comfortable that the reset process was safe and
22 effective?

23 A. As I mentioned, I believe we did some
24 samples for him, and he put them through a -- put
25 them back in service and had no issues with it. 12:12:42

1 with everyone --

2 MR. McCAULLEY: Yes.

3 MR. SNYDER: -- I'll get -- I'll jump in.

4 EXAMINATION

5 BY MR. SNYDER: 13:57:40

6 Q. Mr. Posdal, thanks for being here today.
7 To reintroduce myself, I'm Josh Snyder, counsel for
8 the hospitals plaintiffs and the Proposed Class. I
9 won't go back through everything that was the
10 subject of your testimony today, but I have a few 13:57:56
11 areas that I'm hoping to clarify or expand on.

12 A. Okay.

13 Q. To start, do you recall earlier today
14 testifying about Intuitive's use counter for its
15 EndoWrist? 13:58:16

16 A. Yes.

17 Q. And I -- I made a note that you referred
18 to that use counter at one point as arbitrary. Did
19 I take that down word correctly?

20 A. I believe you did. 13:58:26

21 Q. And why -- why did you describe
22 Intuitive's EndoWrist use counter as arbitrary?

23 A. I -- I guess there were a couple of
24 reasons. The -- the main reason is that this
25 device, outside of the counter, is substantially 13:58:46

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1 equivalent to instruments that we've repaired for
2 decades. There's -- there's no meaningful or
3 significant difference. I think we allowed for the
4 fact that -- that it differs from some monopolar
5 instrumentation, in that it has a couple of wires 13:59:08
6 that help steer and direct the distal tip.

7 Also, that that is not unlike services
8 that we perform every day on flexible endoscopes.
9 And the fact that with a little bit of research, it
10 shows that Intuitive requested 510(k) clearance on 13:59:30
11 these instruments claiming substantial equivalence
12 to existing instruments in the field.

13 Those two things together, our experience
14 with instrumentation and what generally goes wrong
15 with it, what it needs to put it back into shape, 13:59:53
16 all led us to believe that these instruments were
17 made for -- potentially for many more uses than the
18 ten that they were allowed to use. And -- and I
19 think another factor is, some of the very EndoWrists
20 that Intuitive provides have up to a hundred uses. 14:00:17
21 They're made of the same materials. It -- it -- it
22 seems -- it -- it seems impossible to believe
23 that -- that some instruments that they could set
24 for a hundred uses are significantly different from
25 the ones that they're setting for ten based on 14:00:36

1 reprocessing and things like that.

2 Q. Is it fair -- is it fair for me to view
3 your answer as including the word "arbitrary" to
4 encompass issues of patients' safety?

5 MR. CHAPUT: Objection. 14:01:00

6 BY MR. SNYDER:

7 Q. In other words, do you -- do you -- I'll
8 pause.

9 MR. CHAPUT: Objection.

10 BY MR. SNYDER: 14:01:12

11 Q. Well, let me ask it this way:

12 Do you believe the use counter is
13 arbitrary when it comes to patient's safety?

14 MR. CHAPUT: Objection to form.

15 THE WITNESS: I -- I -- I believe it is 14:01:22
16 arbitrary, and -- and let me, I guess, take that a
17 step further.

18 Depending on how the instrument is used.

19 If the instrument is used properly, if it's
20 reprocessed properly, if no excessive force or 14:01:39
21 anything is used during surgery or somehow damaged

22 in reprocessing, the instrument would seem to be
23 safe for multiple uses as are all of the other
24 instruments that we provide service to.

25 That being said, if any of those 14:02:06

1 situations occurred, if there was damage during
2 procedure, if it was damaged during reprocessing, if
3 it was dropped on the floor, slammed in a case cart,
4 any of those things, it -- it could be damaged on
5 the very first time. They either -- it -- it could 14:02:24
6 have nine uses on it, that -- that definitely
7 wouldn't have any meaning because the instrument was
8 damaged beyond its a repair -- its ability to
9 function properly.

10 So all things being correct in use and 14:02:38
11 reprocessing and our experience with other
12 instrumentation, it would seem that ten uses was far
13 too low of a -- an arbitrary number to be assigned
14 to the -- to the number of uses that this instrument
15 would be safe for use. Again, could damage it on 14:03:00
16 the very first time you use it or -- or before.

17 BY MR. SNYDER:

18 Q. That -- that's helpful.

19 On a slightly different but related topic,
20 you testified that -- I believe that the opportunity 14:03:14
21 to SIS in EndoWrist repair was in the tens of
22 millions potentially in excess of \$100 million a
23 year.

24 Did I get that right?

25 A. Yes. 14:03:30

1 THE WITNESS: Yes, it is.

2 BY MR. SNYDER:

3 Q. Am I right that Mr. Johnson for SIS was
4 the primary person involved in those discussions?

5 A. That is accurate. 14:11:55

6 Q. How long have you worked with Mr. Johnson?

7 A. I believe since 2018.

8 Q. And did -- did Mr. Johnson ever report to
9 you that hospitals were expressing safety concerns
10 about repaired EndoWrists? 14:12:17

11 MR. CHAPUT: Object to the form.

12 THE WITNESS: No.

13 BY MR. SNYDER:

14 Q. Do you have any other reason to think that
15 hospitals have expressed to SIS safety concerns with 14:12:25
16 respect to repaired EndoWrists?

17 MR. CHAPUT: Object to the form.

18 THE WITNESS: No.

19 BY MR. SNYDER:

20 Q. Do you recall closer to the beginning of 14:12:43
21 the day, Intuitive's counsel asked a series of
22 questions about Rebotix's testing of EndoWrists? Do
23 you recall that generally?

24 A. Yes, I do.

25 Q. And think -- thinking back to that 14:13:00

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1 testimony, my overall question is: Why was SIS
2 comfortable relying on Rebotix's testing of
3 EndoWrists?

4 MR. CHAPUT: Object to the form.

5 THE WITNESS: I think we were comfortable 14:13:19
6 because, number one, we have experience in the
7 repair of devices, similar to the EndoWrist. And we
8 had viewed their process. And it was an adequate
9 process regarding the physical repair of the
10 equipment. 14:13:45

11 In terms of the -- replacing the counter,
12 it was, to my knowledge, a very simple process of
13 soldering an additional component to add lives,
14 nothing more. The robotic could communicate with
15 the EndoWrist, still see the model number, the 14:14:09
16 serial number. The only thing that would change
17 were the number of available lives on it.

18 It's not an, from a mechanical standpoint,
19 an overly complicated device. Once the robot reads
20 that information, there's no exchange, to my 14:14:24
21 knowledge, of any electronic information. It
22 becomes a manual process. The robot guides the --
23 the EndoWrist. It becomes a mechanical instrument,
24 one that we are infinitely familiar with.

25 BY MR. SNYDER: 14:14:42

1 Q. And did SIS consider developing its own
2 testing programs at any point for EndoWrists?

3 A. As I stated earlier, I -- we were in the
4 process of setting up training with the Rebotix
5 process. At that point, we would work with Rebotix 14:15:00
6 and suggest any potential improvements in testing,
7 in verification, any of those things, anything that
8 we could add with our 50 years of experience
9 repairing medical devices.

10 Q. Go -- going back a -- a few questions, I 14:15:21
11 asked you about SIS's view that EndoWrist repair
12 could be even in excess of \$100 million per year
13 opportunity. Does that -- do you recall that
14 generally, Mr. Posdal?

15 A. Yes, I do. 14:15:41

16 Q. And it's -- it's fair to say, I think,
17 that S -- SIS didn't achieve anything close to that
18 level of success with its EndoWrist repair business?

19 A. It is fair to say that.

20 Q. Why -- why didn't it achieve that level of 14:16:01
21 success?

22 MR. CHAPUT: Object to form.

23 THE WITNESS: It's simply the hospitals,
24 through whatever communication by Intuitive, had
25 decided it wasn't worth risking shutting down their 14:16:17

1 their legal department, iterated the terms of their
2 agreement and then ended by saying, if they found
3 out that the customer was using a third party to do
4 anything to these EndoWrists, that they may well not
5 perform a service call when the customer was in 14:17:54
6 need. And -- and basically -- basically iterating
7 that their robot may be inoperable if they choose to
8 work with a third party.

9 Q. Thank -- thank you.

10 If -- if there hadn't been the -- the 14:18:12
11 quick shut down, was SIS prepared to scale up its
12 EndoWrist repair business?

13 A. Absolute- --

14 MR. CHAPUT: Object to the form.

15 THE WITNESS: Absolutely. 14:18:24

16 BY MR. SNYDER:

17 Q. How so?

18 A. We had already set aside some room. We
19 had started purchasing equipment. We had the
20 expertise in-house to take care of all of the 14:18:34
21 testing, if -- if we got to that point. In the
22 beginning, we were able to send to Rebotix that --
23 that process would have happened, whether it was
24 continuing through Rebotix or transitioned to the
25 work in-house. And most of it was the -- we were 14:18:55

1 planning to bring it all in-house with the exception
2 of purchasing the actual chip, the -- the -- the
3 additional component from Rebotix. And they were
4 fine with that process.

5 Q. Thank -- thank you. 14:19:14

6 I have just a question or two on an
7 exhibit, which I'm going to try to pub- -- introduce
8 now.

9 Hopefully this works.

10 Okay. It should -- should be showing up. 14:20:10

11 A. What number is it?

12 Q. So this will be Plaintiffs' 10 -- 107.

13 (Previously marked Deposition Exhibit 107
14 was referenced.)

15 BY MR. SNYDER: 14:20:22

16 Q. And --

17 MR. CHAPUT: I don't see it there.

18 MR. SNYDER: So if -- there are a few

19 different folders. The one that has your name and
20 then marked exhibits, it's actually at the -- the 14:20:34
21 top because it's earl- -- an earlier number than the
22 defense exhibits.

23 THE WITNESS: Yeah, I don't -- I don't
24 have that yet. Let me try refreshing it again.

25 I don't see it. Is that just me? Does 14:20:53

1 Q. Great.

2 MR. SNYDER: Thank you, Mr. Posdal.

3 That's all I have at this time.

4 THE WITNESS: You're welcome.

5 EXAMINATION

14:25:27

6 BY MR. McCAULLEY:

7 Q. Mr. Posdal, I just had a few questions.

8 Earlier on in the day, I think in the context of

9 your deposition on behalf of the company, you

10 testified that you were aware of testing that

14:25:38

11 Rebotix had done that indicated EndoWrists were

12 capable of being used up to a certain amount of uses

13 at least.

14 Do you recall that?

15 A. I do.

14:25:57

16 Q. And I believe it was up to 50 uses; is

17 that correct?

18 MR. CHAPUT: Object to form.

19 THE WITNESS: I believe in that report,

20 and I -- I don't know for certain, I think it said

14:26:07

21 in excess of 50. I -- I don't recall the exact

22 verbiage, but 50 was mentioned there.

23 Q. And did you rely on those tests in

24 evaluating your decision to participate with Rebotix

25 in repairing EndoWrists, resetting the counter?

14:26:20

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1 MR. CHAPUT: Object to form.

2 THE WITNESS: We did. We had a

3 longstanding relationship with them in the other

4 specialties that we had mentioned previously and

5 relied on their expertise in -- in this to be the 14:26:37

6 same -- the -- the same quality and -- and

7 evaluation.

8 BY MR. McCAULLEY:

9 Q. Did you trust Rebotix?

10 MR. CHAPUT: Object to the form. 14:26:50

11 THE WITNESS: We did. We -- like I said,

12 we had a ten-year plus relationship with them. They

13 serviced the number of devices that -- that -- that,

14 again, are far more complex than the EndoWrists that

15 we're discussing here today. 14:27:05

16 MR. McCAULLEY: Thank you. I don't have

17 anything further, Isaac.

18 FURTHER EXAMINATION

19 BY MR. CHAPUT:

20 Q. Okay, Mr. Posdal, I have just a few 14:27:13

21 additional questions.

22 So first, there was some -- you -- you

23 testified in response to some questions Mr. Snyder

24 asked about this phrase "substantial equivalence."

25 Do you recall that testimony? 14:27:31

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